



City of Seattle

Gregory J. Nickels, Mayor
Department of Planning and Development
D. M. Sugimura, Director

**CITY OF SEATTLE
ANALYSIS AND DECISION OF THE DIRECTOR OF
THE DEPARTMENT OF PLANNING AND DEVELOPMENT**

Application Number: 2301926
Applicant Name: Tom Jordan of Fuller Sears Architects for Associated General Contractors
Address of Proposal: 1200 Westlake Avenue North

SUMMARY OF PROPOSED ACTION

Shoreline Substantial Development Permit for future construction of a 2nd story 700 square foot restaurant addition to an existing 10 story administrative office and restaurant building. No change in parking.

The following approvals are required:

- **Shoreline Substantial Development Permit** – (SMC Chapter 23.60)
- **SEPA - Environmental Determination** - (SMC Chapter 25.05)

SEPA DETERMINATION: ☐ Exempt ☐ DNS ☐ EIS

☒ DNS with conditions*

☐ DNS involving non-exempt grading or demolition or involving another agency with jurisdiction.

BACKGROUND DATA

Site Area and Vicinity Development

The subject site is located on a waterfront parcel on the west side of Lake Union. The site is zoned Commercial 2 with a 40 foot height limit (C2-40) and is within an Urban Stable (US) shoreline environment. The site has an area of 170,005 square feet. The site is developed with a

10 story office building (105,945 square feet) connected to a 3-story office building (4520 square feet) and two detached office buildings (1200 and 720 square feet respectively). The uses on site are marina, moorage, office, terminal facility (Argosy Cruise Lines; established under project #2200331), and eating and drinking establishment. The abutting wet land is owned by the Department of Natural Resources and is leased to the subject property owner.

Proposal

The proposal is to fully enclose a 700 square foot outdoor concrete deck to create a larger meeting/banquet room that will be used by the existing restaurant for catered events and meetings. The existing deck is enclosed on three sides by the existing 10 story building (AGC building) except on the north side which is open to the water. The applicant has indicated that the deck and abutting meeting room is functioning as a part of the restaurant. The deck is located over a parking garage which is over water; therefore the proposal is considered to be over water.

Public Comment

No public comments were received during the public comment period, which ended on February 20, 2004.

ANALYSIS - SHORELINE SUBSTANTIAL DEVELOPMENT PERMIT

Substantial Development Permit Required

Section 23.60.030 of the Seattle Municipal Code provides criteria for review of a shoreline substantial development permit and reads: *A substantial development permit shall be issued only when the development proposed is consistent with:*

- A. *The policies and procedures of Chapter 90.58 RCW;*
- B. *The regulations of this Chapter; and*
- C. *The provisions of Chapter 173-27 WAC.*

Conditions may be attached to the approval of a permit as necessary to assure consistency of the proposed development with the Seattle Shoreline Master Program and the Shoreline Management Act.

A. THE POLICIES AND PROCEDURES OF CHAPTER 90.58.RCW

Chapter 90.58 RCW is known as the Shoreline Management Act of 1971. It is the policy of the State to provide for the management of the shorelines of the state by planning for and fostering all reasonable and appropriate uses. This policy contemplates protecting against effects to public health, the land use and its vegetation and wild life, and the waters of the state and their aquatic life, while protecting public right to navigation and corollary incidental rights. Permitted uses in the shoreline shall be designed and conducted in a manner to minimize, insofar as possible, any resultant damage to the ecology and environment of the shoreline area and any interference with the public's use of the water.

The Shoreline Management Act provides definitions and concepts, and gives primary responsibility for initiating and administering the regulatory program of the Act to local governments. The Department of Ecology is to primarily act in a supportive and review capacity, with primary emphasis on insuring compliance with the policy and provisions of the Act. As a result of this Act, the City of Seattle adopted a local Shoreline Master Program, codified in the Seattle Municipal Code at Chapter 23.60. Development on the shorelines of the state is not to be undertaken unless it is consistent with the policies and provisions of the Act, and with the local master program. The Act sets out procedures, such as public notice and appeal requirements, and penalties for violating its provisions. As the following analysis will demonstrate, the subject proposal is consistent with the procedures outlined in RCW 90.58.

B. THE REGULATIONS OF CHAPTER 23.60

Pursuant to SMC 23.60.064C, in evaluating whether a development which requires a substantial development permit, conditional use permit, variance permit or special use authorization meets the applicable criteria, the Director shall determine that the proposed use: 1) is not prohibited in the shoreline environment and the underlying zone and; 2) meets all applicable development standards of both the shoreline environment and underlying zone and; 3) satisfies the criteria for a shoreline variance, conditional use, and/or special use permits, if required.

This proposal does not require a shoreline variance, conditional use or special use permit. Eating and Drinking Establishments are permitted outright in Commercial 2 zones; therefore, they are not prohibited. The proposal has been reviewed by DPD and meets the applicable development standards of the C2 zone (SMC 23.47). There are no specific shoreline development standards applicable to this use (SMC 23.60.179 through SMC 23.60.210)

Shoreline Goals and Policies

Pursuant to SMC 23.60.004, the Shoreline Goals and Policies (part of the Seattle Comprehensive Plan's Land Use Element), and the purpose and locational criteria for each shoreline environment contained in SMC 23.60.220 must be considered in making all discretionary decisions in the shoreline district.

The proposal does not conflict with the goals or policies relating to non-water dependent uses. The goals and policies generally state that such uses provide a public benefit in that more people can enjoy the shorelines of the city. Additionally, the site provides a public benefit that allows more people to enjoy the shoreline in that Argosy Cruise Lines operates a passenger terminal abutting the restaurant on the same site.

The purpose of the US environment described in SMC 23.60.220C7, is to (1) provide opportunities for substantial number of people to enjoy the shorelines by encouraging water-dependent recreational uses and by permitting nonwater dependent commercial uses if they provide substantial public access and other public benefits; (2) preserve and enhance views of the water from adjacent streets and upland residential areas; (3) support water dependent uses by providing services such a marine areas for water-dependent and water-related uses while still providing some views of the water from adjacent streets and upland residential streets.

DPD has reviewed the proposal and applicable codes and policies to determine that there is no change of use proposed since the deck has functioned as part of the restaurant; therefore, the application is not considered an expansion of the use. The proposal will not affect views in that the deck is enclosed on three sides. The use is non-conforming and is not currently allowed in the US shoreline environment in that restaurant uses over water are not allowed. Restaurants on dry land are allowed if public amenities or facilities are provided.

Development Standards

The subject structure and use is permitted subject to the development standards in SMC 23.60.122 which relates to nonconforming uses, the General Development standards in SMC 23.60.152 and the specific US Shoreline development standards in SMC 23.60.630.

General Development Standards for all Shoreline Environments (SMC 23.60.152)

These general standards apply to all uses in the shoreline environments. They require that all shoreline activity be designed, constructed, and operated in an environmentally sound manner consistent with the Shoreline Master Program and with best management practices for the specific use or activity. All shoreline development and uses must, in part: 1) minimize and control any increase in surface water runoff so that receiving water quality and shoreline properties are not adversely affected; 2) be located, designed, constructed, and managed in a manner that minimizes adverse impact to surrounding land and water uses and is compatible with the affected area; and 3) be located, constructed, and operated so as not to be a hazard to public health and safety. The structure, as conditioned and mitigated, is consistent with the general standards for development within the shoreline area. General development standards (SSMP 23.60.152) state that Best Management Practices shall be followed for any development in the shoreline environment. These measures are required to prevent contamination of land and water. The Stormwater, Grading and Drainage Control Code (SMC 22.800) places considerable emphasis on improving water quality.

Development Standards for US Shoreline Environments (SMC 23.60.630)

The development standard limits the height of structures to a maximum height of 30 feet in SMC 23.60.632. The proposed roof of the deck is proposed to be 30 feet from ordinary high water; therefore it meets this standard. The proposal will not affect other development standards, such as, lot coverage, view corridor and public access in that the deck to be enclosed already exists and is surrounded by existing structure on three sides.

C. THE PROVISIONS OF CHAPTER 173-27 WAC

Chapter 173-27 of the WAC sets forth permit requirements for development in shoreline environments and gives the authority for administering the permit system to local governments. The State acts in a review capacity. The Seattle Municipal Code Section 23.60 (Shoreline Development) and the RCW 90.58 incorporates the policies of the WAC by reference. These policies have been addressed in the foregoing analysis and have fulfilled the intent of WAC 173-27.

DECISION - SHORELINE SUBSTANTIAL DEVELOPMENT PERMIT

The Shoreline Substantial Development Permit is **GRANTED.**

ANALYSIS - SEPA

The initial disclosure of the potential impacts from this project was made in the environmental checklist submitted by the applicant dated December 19, 2003. The information in the checklist and the experience of the lead agency with review of similar projects form the basis for this analysis and decision.

The SEPA Overview Policy (SMC 25.05.665 D) clarifies the relationship between codes, policies, and environmental review. Specific policies for each element of the environment, certain neighborhood plans, and other policies explicitly referenced may serve as the basis for exercising substantive SEPA authority.

The Overview Policy states, in part: "Where City regulations have been adopted to address an environmental impact, it shall be presumed that such regulations are adequate to achieve sufficient mitigation," subject to some limitations. Under such limitations/circumstances (SMC 225.05.665 D1-7) mitigation can be considered. Thus, a more detailed discussion of some of the impacts is appropriate.

Short-term Impacts

The following temporary or construction-related impacts are expected: decreased air quality due to increased dust and other suspended air particulates during construction; increased noise and vibration from construction operations and equipment; slightly increased traffic and parking demand from construction personnel traveling to and from the work site.

Several adopted codes and/or ordinances provide mitigation for some of the identified impacts. Puget Sound Clean Air Agency regulations require control of fugitive dust to protect air quality. The Building Code provides for construction measures and life safety issues. Finally, the Noise Ordinance regulates the time and amount of construction noise that is permitted in the city.

It is anticipated that construction for this project will be minor and of short duration. Compliance with the above applicable codes and ordinances will reduce or eliminate most adverse short-term impacts to the environment. However, impacts associated with water quality warrant further discussion.

Water Quality

The proposed project does not involve any in-water construction. However, construction will occur on a building on pilings over-water and debris could enter the water during construction. Measures should be in place to prevent this from occurring, thus a clean up/removal plan should be in place. Typically, the Stormwater, Grading and Drainage Code requires Best Management Practices for containment and clean up of spills of hazardous materials during demolition/construction of a project. In this instance, however, since this proposal would occur

over water additional measures are necessary to insure adequate mitigation of the identified impacts. Therefore, pursuant to SEPA Water Quality Policies, the applicant must prepare and submit a Best Management Plan (BMP) that details the method of containment and removal of any structural debris or material that may enter Lake Union during construction. The Plan may be incorporated as construction notes on the final building permit plan sets.

Long-term Impacts

No long-term impacts are anticipated as a result of this proposal in that the use is already established and the addition is minor in scope.

DECISION SEPA

This decision was made after review by the responsible official on behalf of the lead agency of a completed environmental checklist and other information on file with the responsible department. This constitutes the Threshold Determination and form. The intent of this declaration is to satisfy the requirement of the State Environmental Policy Act (RCW 43.21.C), including the requirement to inform the public of agency decisions pursuant to SEPA.

[X] Determination of Non-Significance with conditions. This proposal has been determined to not have a significant adverse impact upon the environment. An EIS is not required under RCW 43.21.030(2) (c).

[] Determination of Significance. This proposal has or may have a significant adverse impact upon the environment. An EIS is required under RCW 43.21C.030(2)(C).

SEPA CONDITIONS

The applicant/owner shall:

Prior to Issuance of a Building Permit

1. Submit a Best Management Plan that details the method of containment and removal of any debris or material that may enter Lake Union during construction. The Best Management Plan shall be incorporated into the final building permit plan sets.

Signature: _____ (signature on file) Date: October 18, 2004

Jess Harris, AICP, Land Use Planner
Department of Planning and Development

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